# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/712,241 | 11/13/2003 | Sachin Govind Deshpande | 10237.27 | 9479 |

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| EXAMINER |
|---|
| SCHNURR, JOHN R |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/712,241 | DESHPANDE ET AL. |
| | **Examiner** | **Art Unit** | |
| | John R. Schnurr | 2623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>13 November 2003</u>.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-42</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-42</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>13 November 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All  b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-SB/08)
   Paper No(s)/Mail Date <u>02/24/2004</u>.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

## DETAILED ACTION

1.      This Office Action is in response to Application No. 10/712,241 filed 11/13/2003.

Claims 1-42 are pending and have been examined.

2.      The information disclosure statement (IDS) submitted on 02/24/2004 was

considered by the examiner.

### *Claim Rejections - 35 USC § 102*

3.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.      Claims **1-5, 7-9, 14, 18-21, 23, 24, 28-34 and 39** are rejected under 35

U.S.C. 102(e) as being anticipated by **Palevich et al. (US Patent 6,889,256)**, herein

Palevich.

> Consider **Claim 1**, Palevich clearly teaches a networked system that includes a client and a server, a method for dynamically obtaining at least a portion of an application from the server over a network, **(Fig. 1)** the method comprising:
>
> > determining, at a local client device, that at least a portion of an application is needed at the local client device, **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46.)** wherein the portion is located at a remote server device; **(Fig. 3: Image file 32 is located at a remote server and contains application 126, column 8 lines 4-6.)**

using a file system protocol **(column 5 lines 8-11)** to dynamically obtain the portion from the remote server device, **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)** wherein the portion is obtained so as to be transparent to the user and as needed by the local client device. **(Large applications are streamed to the client such that the entire set of application files need not be present, column 7 lines 43-51.)**

Consider **Claim 2**, Palevich clearly teaches the local client device is a television. **(Fig. 1 Television 22)**

Consider **Claim 3**, Palevich clearly teaches the local client device is an Aquos TV. **(Fig. 1 Television 22)**

Consider **Claim 4**, Palevich clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device **(column 5 lines 8-11)** comprises using an internet file system protocol. **(Fig. 1 HTTP server 34, column 3 lines 60-65)**

Consider **Claim 5**, Palevich clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device comprises using a network file system (NFS) protocol. **(column 5 lines 8-11)**

Consider **Claim 7**, Palevich clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device is initiated at the local client device. **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46.)**

Consider **Claim 8**, Palevich clearly teaches a step for using the file system protocol to dynamically obtain at least another portion of the application from another remote server device. **(The invention is practiced in a distributed computer environment, column 3 lines 9-12, wherein multiple HTTP connections may be made, column 13 lines 35-41.)**

Consider **Claim 9**, Palevich clearly teaches a step for using the file system protocol to dynamically obtain at least a portion of another application from another remote server device. **(The invention is practiced in a distributed computer environment, column 3 lines 9-12, wherein multiple HTTP connections may be made, column 13 lines 35-41.)**

Consider **Claim 14**, Palevich clearly teaches the user input is received by the local client device from a remote control device. **(Fig. 1 User input device 28)**

Consider **Claim 18**, Palevich clearly teaches a networked system comprising:

a client, wherein the client includes a television that provides programming content; **(Fig. 1: STB 20 is connected to television 22, column 3 lines 15-18.)**

a server coupled to the client via a network, wherein the server includes an application remotely preserved for the client; **(Fig. 3: HTTP server 34 stores image file 32, column 8 lines 4-6.)**

a file system protocol employed by the client and the server to allow the client to obtain at least a portion of the application remotely preserved for the client **(column 5 lines 8-11)** on an as-needed basis. **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)**

Consider **Claim 19**, see claim 3.

Consider **Claim 20**, see claim 4.

Consider **Claim 21**, see claim 5.

Consider **Claim 23**, see claim 8.

Consider **Claim 24**, see claim 9.

Consider **Claim 28**, Palevich clearly teaches a computer program product for implementing within a networked system a method for dynamically obtaining at least a portion of an application from a server over a network, **(Fig. 1)** the computer program product comprising:

a computer readable medium for providing computer program code means utilized to implement the method, **(column 2 lines 59-61)** wherein the computer program code means is comprised of executable code for implementing the steps for:

determining, at a local client computer device, that at least a portion of an application is needed at the local client computer device, , **(Fig. 5: A file open request is sent from the local client, column 11 lines 43-46.)** wherein the portion is located at a remote server computer device; **(Fig. 3: Image file 32 is located at a remote server and contains application 126, column 8 lines 4-6.)**

using a file system protocol **(column 5 lines 8-11)** to dynamically obtain the portion from the remote server computer device, **(Application 126**

**may be streamed from the server to the client, column 8 lines 4-12.)** wherein the portion is obtained so as to be transparent to the user and as needed by the local client computer device. **(Large applications are streamed to the client such that the entire set of application files need not be present, column 7 lines 43-51.)**

Consider **Claim 29**, see claim 2.

Consider **Claim 30**, see claim 3.

Consider **Claim 31**, see claims 4 and 5.

Consider **Claim 32**, see claim 7.

Consider **Claim 33**, see claim 8.

Consider **Claim 34**, see claim 9.

Consider **Claim 39**, see claim 14.

### Claim Rejections - 35 USC § 103

5.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.      Claims **10-13, 15-17, 25-27, 35-38 and 40-42** are rejected under 35 U.S.C.

103(a) as being unpatentable over **Palevich et al. (US Patent 6,889,256)** in view of

**Jerding et al. (US Patent Application Publication 2002/0104097)**, herein Jerding.

Consider **claim 10**, Palevich clearly teaches determining that at least a portion of an application is needed at the local client device. **(Fig. 5:  A file open request is sent from the local client, column 11 lines 43-46.)**

However, Palevich does not explicitly teach a step for sending an event from the remote server device to the local client device to indicate an availability of the application.

In an analogous art Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches sending an event from the remote server device to the local client device to indicate an availability of the application. **(Fig. 8: In step 121 the server transmits the available applications to the DHCT, [0071].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by sending an event from the remote server device to the local client device to indicate an availability of the application, as taught by Jerding, for the benefit of ensuring the client always receives up-to-date applications (see [0009] Jerding).

Consider **claim 11**, Palevich combined with Jerding, as in claim 10, clearly teaches the application is a new application. **(New versions of the applications are transmitted, [0071] Jerding.)**

Consider **claim 12**, Palevich combined with Jerding, as in claim 10, clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device **(Application 126 may be streamed from the server to the client, column 8 lines 4-12 Palevich.)** is initiated at the local client device after receiving the event from the remote server device about the availability of the new application. **(The application is activated upon subscriber command after receiving the list, [0071] Jerding.)**

Consider **claim 13**, Palevich clearly teaches the step for using the file system protocol to dynamically obtain the portion from the remote server device. **(Application 126 may be streamed from the server to the client, column 8 lines 4-12.)**

However, Palevich does not explicitly teach the application is initiated at the local client device after receiving input from a user.

In an analogous art Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches the application is initiated at the local client device after receiving input from a user. **([0043])**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by initiating the application at the local client device after receiving input from a user, as taught

by Jerding, for the benefit of providing a framework from which the user may access applications (see [0029] Jerding).

Consider **claim 15**, Palevich clearly teaches a networked system that includes a client and a server, a method for dynamically obtaining at least a portion of an application from the server over a network, **(Fig. 1)**

However, Palevich does not explicitly teach the application is a new application, and wherein the method further comprises a step for monitoring a location on the remote server device to determine whether the new application is available.

In an analogous art Jerding, which discloses a system for transmitting applications to a set top box from a server, clearly teaches the application is a new application, **(New versions of the applications are transmitted, [0071].)** and wherein the method further comprises a step for monitoring a location on the remote server device to determine whether the new application is available. **(Fig. 5: In step 73 the server is monitored to determine if the application version is up-to-date, [0044].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Palevich by monitoring a location on the remote server device to determine whether the new application is available, as taught by Jerding, for the benefit of ensuring the client always receives up-to-date applications (see [0009] Jerding).

Consider **claim 16**, Palevich combined with Jerding, as in claim 10, clearly teaches a step for sending an event from the remote server device to the local client device to indicate at least one of (i) a removal of a first application; and (ii) a modification to a particular application. **([0071] Jerding)**

Consider **claim 17**, Palevich combined with Jerding, as in claim 15, clearly teaches a step for monitoring a location on the remote server device to determine at least one of: (i) whether a first application is removed; and (ii) whether a particular application is modified. **([0044])**

Consider **Claim 25**, see claim 10.

Consider **Claim 26**, see claim 11.

Consider **Claim 27**, see claim 15.

Consider **Claim 35**, see claim 10.

Consider **Claim 36**, see claim 11.

Consider **Claim 37**, see claim 12.

Consider **Claim 38**, see claim 13.

Consider **Claim 40**, see claim 15.

Consider **Claim 41**, see claim 16.

Consider **Claim 42**, see claim 17.


7.      Claims **6 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Palevich et al. (US Patent 6,889,256)** in view of **Chan et al. (US Patent Application**

**Publication 2003/0009668)**, herein Chan.

> Consider **claim 6**, Palevich clearly teaches the step for using the file system
> protocol to dynamically obtain the portion from the remote server device.
> **(column 5 lines 8-11)**
>
> However, Palevich does not explicitly teach using a common internet file system
> (CIFS) protocol.
>
> In an analogous art Chan, which discloses a system for streaming data, clearly
> teaches using a common internet file system (CIFS) protocol.  **([0021])**
>
> Therefore, at the time the invention was made, because both references teach
> methods of streaming data over a network it would have been obvious to one
> with ordinary skill in the art to substitute into the system of Palevich a common
> internet file system (CIFS) protocol, as taught by Chan, to achieve the
> predictable result of transferring data over a network.
>
> Consider **Claim 22**, see claim 6.


### Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to John R. Schnurr whose telephone number is (571) 270-

1458.  The examiner can normally be reached on Monday - Friday, 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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